



WEB COPY

Crl.R.C.(MD).No.1197 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	20.12.2023
Pronounced On	:	12.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD). No.1197 of 2022

and

Crl.M.P(MD). Nos.14971 and 14972 of 2022

B.Karuppannan

... Petitioner

Vs.

A.Kavitha

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records relating to the order passed by the II Additional District and Sessions Court, Tiruchirapalli in Crl.A.No.92/2019 dated 20.10.2021 by modifying the order dated 19.02.2019 passed by the Judicial Magistrate, Additional Mahila Court, Tiruchirapalli in M.C.No.81/2014 and set aside the same by allowing the Criminal Revision Petition.

For Petitioner : Mr.G.S.Ashok Adhithyan

For Respondent : Mr.M.Senthilkumar



Crl.R.C.(MD).No.1197 of 2022

WEB COPY

ORDER

This Criminal Revision case has been filed against the order passed by the learned II Additional District and Sessions Judge, Tiruchirappalli in Crl.A.No.92 of 2019, dated 20.10.2021 by modifying the order dated 19.02.2019 passed by the Judicial Magistrate, Additional Mahila Court, Tiruchirappalli in M.C.No.81 of 2014 and to set aside the same.

2.The petitioner who is the husband of the first respondent, filed this revision case, challenging the order passed in Domestic Violence Case, on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, which was confirmed by the learned District and Sessions Judge, Trichirappalli, with some modification.

3.The first respondent married the petitioner on 30.10.1998. Out of their wedlock, on 29.10.1999, the second respondent was born. Thereafter some dispute arose between the petitioner and the respondent and the respondent along with her son left the matrimonial home on 30.11.2013. Thereafter, the first and the second respondents filed a petition for maintenance in M.C.No.81 of 2014,



Crl.R.C.(MD).No.1197 of 2022

on the file of the Additional Mahila Court (Judicial Magistrate), Tiruchirappalli

under the Domestic Violence Act. In the said case, the respondents claimed reliefs under Sections 18, 19, 20 and 22 of the Act.

4.In the petition it is alleged that, she undergone untold cruelty on the hands of the petitioner and his family members. Therefore, she made a complaint before the jurisdictional police station. Thereafter, the petitioner herein has filed a petition in H.M.O.P.No.133 of 2014, on the file of the Principal Sessions Court, Trichy for divorce. The same was dismissed for default and hence, he filed a petition to restore the same.

5.The respondents made a specific averment in the claim petition that the petitioner has number of properties and he is working as a teacher in the school. In view of the domestic violence attributed against the first respondent, she seeks protection order, residential order and monetary relief and compensation under Section 18, 19, 20 and 22 of the Domestic Violence Act.

6.But the petitioner filed a counter denying the allegations made against him. He said that the allegation made in the petitions are not proved. Further, he stated that he is not liable to pay any maintenance, on the ground that he did not



Crl.R.C.(MD).No.1197 of 2022

commit any domestic violence. The petitioner also disputed his salary. The petitioner specifically stated that he is not liable to pay any maintenance, compensation or residential order.

7.To prove her case, the wife produced Ex.P1 to Ex.P9 and examined P.W. 1 and P.W.2. The husband examined 3 witnesses as R.W.1 to R.W.3 on his side and produced Ex.R1 to Ex.R15.

8.The learned trial Judge, after considering the evidence dismissed the relief under Section 19 and 22 of the Act and granted an order under section 19 of the Act to pay the rental amount of Rs.3,000. The learned learned Magistrate also granted maintenance of Rs.5,000/- to the respondents. Challenging the same, the petitioner filed the appeal before the learned II Additional District and Sessions Court, Tiruchirappalli in C.A.No.92 of 2019. After hearing the appeal, the learned appellate Judge confirmed the order passed by the learned trial Judge in granting rental expenses under Section 19 and 20 of the Act and dismissed the maintenance award granted in respect of the second respondent, on the ground that he attained majority. The learned appellate Judge, considering the present day cost of living, enhanced the maintenance amount from Rs.5,000/- to Rs. 7,500/- to the first respondent. Challenging the same, the petitioner herein has



Crl.R.C.(MD).No.1197 of 2022

filed this revision case.

WEB COPY

9.The learned counsel for the petitioner submitted that the learned trial Judge committed error as, after dismissing the claim under Section 18 and 22 of the Act, it has no jurisdiction to pass order under Sections 19 and 20 of the Act. He would further submit that the appellate Court has no power to enhance the maintenance from Rs.5,000/- to Rs.7,500/- to the first respondent without any petition filed on behalf of the first respondent.

10.The learned counsel for the respondent submitted that the learned appellate Judge, considering the cost of living, correctly enhanced the amount from Rs.5,000/- Rs.7,500/- without any appeal filed by the wife. The first appellate Court without considering the economic status of the respondent set aside the maintenance order granted in favour of her son, on the ground that he attained majority. He would further submit that the relief claimed under Section 19 and 20 of the Act, is entirely different from the relief claimed under Section 18 and 20 of the Act. Each Section has different ingredients. Both the Courts below have considered the object of the Act and granted the residence expenses to meet out the rental expenses and the same was in accordance with the law. The learned counsel further submitted that considering the monetary relief, the



Crl.R.C.(MD).No.1197 of 2022

learned trial Judge correctly granted maintenance to the first and second respondents, the learned appellate Judge correctly confirmed the same in respect of the first respondent and considering the cost of living and enhanced the maintenance amount from Rs.5000 to Rs.7,500/- without application on the side of the wife. Hence, he seeks for dismissal of the revision.

11.This Court considered the rival submissions made on either side and perused the materials available on record and also the impugned order passed by both the Courts below.

12.From the submissions of the counsel, the following questions arise for consideration of this court:

(i)Whether the Court below was right in granting relief under section 19 and 20 of the Act after dismissing the relief under Section 18 and 22 of the Act.

(ii)Whether the appellate court is correct in enhancing the maintenance amount from Rs.5,000/- to Rs.7,500/- without any application on the side of the wife.

13.Object of the Domestic Violence Act:

The main object of the Act is to provide more effective protection to the constitutional rights of women and to protect them against violence of any kind occurring within the family.



Crl.R.C.(MD).No.1197 of 2022

It provides civil remedy for enforcement of rights of a woman

e.g. Right to residence, Maintenance, Custody, Protection and compensation.

13.1. It is the social beneficial legislation. It is intended to give all reliefs to women. Each relief has different ingredients. In the said circumstances, both the Courts below dismissed the relief claimed under Section 18 and 22 of the Act. But both the Courts below have considered the pleadings of both the parties and granted relief to the respondent and her son under Section 19 of the Act.

13.2. Section 19 of the Act is as follows:

19. Residence orders.—(1) *While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—*

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

13.3. The Hon'ble Supreme Court in the case of ***Prabha Tyagi Vs. Kamlesh Devi*** reported in ***(2022) 8 SCC 90 and*** in the case of ***Satish Chander***



Crl.R.C.(MD).No.1197 of 2022

Ahuja v. Sneha Ahuja reported in **2022 1 SCC 414** have held that the wife is

entitled to shared household or rent.

13.4. Therefore, the residential order includes the payment of the monthly rental amount. Hence, the court below correctly analysed the provision of the Section 19 and granted Rs.3,000/- as rental expenses. Hence, the first question is answered accordingly against the appellant.

14. The appellate court has power to grant enhanced maintenance amount in the absence of any application on the side of the wife. The word maintenance means (P.Ramanatha Aiyar's Advanced Law Lexicon 5th Edition)

“Maintenance also means of subsistence, supply of necessities and convenience; aid, support, assistance; the support which one person who is bound by law to do so, gives to another for his living”

14.1. The Hon'ble Supreme Court in the following pronouncements stated the object of the maintenance.

14.1(a). Vimala (K.) v. Veeraswamy (K.) [(1991) 2

SCC 375:

3. “Section 125 of the Code of Criminal Procedure is



Crl.R.C.(MD).No.1197 of 2022

meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.”

14.1(b). Kirtikant D. Vadodaria v. State of Gujarat (1996) 4 SCC 479:

15. “... While dealing with the ambit and scope of the provision contained in Section 125 of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in Section 125 provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in Section 125 are intended to achieve this special purpose. The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”

15. The Hon'ble Supreme Court has held that the maintenance amount is to meet out the subsistence of wife and children. The Hon'ble Supreme Court laid



Crl.R.C.(MD).No.1197 of 2022

the following guidelines in the case of **Rajnesh v. Neha**, reported in (2021) 2

SCC 324 to determine the monthly maintenance:

- “1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. The independent income and property of the claimant.*
- 4. The number of persons, the non-applicant has to maintain.*
- 5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.*
- 6. Non-applicant's liabilities, if any.*
- 7. Provisions for food, clothing, shelter, education, medical attendance and treatment, etc. of the applicant.*
- 8. Payment capacity of the non-applicant.*
- 9. Some guesswork is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.*
- 10. The non-applicant to defray the cost of litigation.*
- 11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded under Section 24 of the Act.”*

16. In this case, the learned appellate Judge dismissed the maintenance claim of the respondents filed on behalf of her son, on the ground that he attained majority. But, considering the cost of living, he enhanced the maintenance amount from Rs.5,000/- to Rs.7,500/- in order to meet the ends of justice and the same is in compliance with the above guidelines issued by the



Crl.R.C.(MD).No.1197 of 2022

Hon'ble Supreme Court.

WEB COPY

17.In the said circumstances, this court finds no merit in the submission of the learned counsel for the petitioner and hence both questions were answered against the petitioner. In result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

12.03.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

sbn



Crl.R.C.(MD).No.1197 of 2022

To

1. The II Additional District and Sessions Court,
Tiruchirapalli.
2. The Judicial Magistrate,
Additional Mahila Court, Tiruchirapalli.
3. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD).No.1197 of 2022

K.K.RAMAKRISHNAN, J.

sbn

Pre-delivery Order made in
Crl.RC(MD). No.1197 of 2022
and
Crl.M.P(MD). Nos.14971 and 14972 of 2022

12.03.2024